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OFFICE OF PETITIONS

In re Application of :
Cheng-Fang Hsiao :
Application No. 10/688,185 :
Filed: October 20, 2003 : DECISION
Attorney Docket No.: 1496-942 : ON PETITION
For: DIRECT CURRENT BRUSHLESS :
VIBRATION MOTOR :

~~In re Application of :
Hung-Chi Tsai :
Application No. 10/687,115 :
Filed: October 17, 2003 :
Attorney Docket No.: 1496-941 :
For: STRUCTURE FOR FASTENING :
ILLUMINATION TUBES OF A CLUSTER :
LAMP :~~

This is a decision on the Petition For A Question Not Specifically Provided for Under 37 CFR § 1.182, filed February 13, 2006, which is being treated as a petition to correct the files of the above-identified applications.

Applicant asserts that the Office switched application papers between the above-identified application serial number 10/688,185 ("the motor"), and application serial number 10/687,115 ("the lamp"). Applicant asserts that through discussions with examiners for the applications, the examiners have agreed to and did in fact switch the assigned titles and docket numbers so that the motor examiner would keep the motor invention and the lamp examiner would keep the lamp invention.

However, Applicant provides that not all necessary documents and identifying information has been switched as agreed upon by the examiners. Petition at pp. 2-3.

Applicant provides that the identity of the motor inventor has not been switched to Cheng-Fang Hsaio, and the corresponding Declaration, certified copy of the priority document, and rescission of non-publication request have not been switched. Petition at p.3.

Applicant has filed with the petition previously amended Application Data Sheets to clarify the information and documentation to be switched. Id.

Applicant also provides that "there is no need for new Declarations concerning the 'name change' because the problem with the application is deeper than simply changing the name. The complete identity of the inventor is changed, and the proper declaration was accidentally filed in an unrelated application." Id.

Applicant requests correction of the switched documents and information between the switched applications, including correction of the identity of the inventors in the respective applications.

A review of the application files

10/688,185 (currently identified as "the motor")

A review of the return-receipt postcard filed by Applicant for the "STRUCTURE FOR FASTENING ILLUMINATION TUBES OF A CLUSTER LAMP" (lamp) reveals that it was filed October 20, 2003; was assigned application no. 10/688,185; contained 8 sheets of drawings; listed as the inventor Hung-Chi Tsai, and the docket number was 1496-942.

A Filing Receipt for Application 10/688,185 was mailed on January 26, 2004, indicating the filing date of October 20, 2003; the inventor as Hung-Chi Tsai; the attorney docket number as 1496-942, the application was assigned to art unit 2834, and contained 8 drawings, 1 claim and 1 independent claim.

A review of the file for the 10/688,185 reveals the following:

The original specification filed on October 20, 2003 was for the "DIRECT CURRENT BRUSHLESS VIBRATION MOTOR" (motor), and the title of the invention and drawings have been amended from lamp to motor, and two (2) sheets of drawings respectively.

The application transmittal remained the "STRUCTURE FOR FASTENING ILLUMINATION TUBES OF A CLUSTER LAMP" (lamp), the inventor as Hung-Chi Tsai; attorney docket number 1496-942, and included a Non-publication request. (The non-publication request has been rescinded).

The oath/declaration contained the same title (Lamp), and also lists the inventor as Hung-Chi Tsai.

The Application Data Sheet ("ADS"), also lists the title of the invention as lamp, the inventor as Hung-Chi Tsai, and the attorney docket number as 1496-942.

Summary: We have a specification for a motor with drawings for the motor, but we have a application transmittal form, oath declaration, and ADS for a lamp with a non-publication request intended for the lamp.

10/687,115 (the lamp")

A review of the return-receipt postcard filed by Applicant for the "DIRECT CURRENT BRUSHLESS VIBRATION MOTOR" (motor) reveals that it was filed October 17, 2003; was assigned application no. 10/687,115; contained 2 sheets of drawings; listed as the inventor Cheng-Fang Hsiao; the docket number was 1496-941, and a non-publication request was also filed.

A Filing Receipt was mailed on January 20, 2004, also indicating a motor, with a the filing date of October 17, 2003; listing the inventor as Cheng-Fang Hsiao; the attorney docket number also as 1496-941, the application was assigned to art unit 2875, and contained 2 drawings, 4 claims and 1 independent claim.

A review of the file for the above-identified application reveals that the application was filed on October 17, 2003.

The original specification in the application file was for the "STRUCTURE FOR FASTENING ILLUMINATION TUBES OF A CLUSTER LAMP" (lamp), and the title of the invention and drawings have been amended to also reflect a lamp and eight (8) sheets of drawings.

The application transmittal, however, remained that of the "DIRECT CURRENT BRUSHLESS VIBRATION MOTOR", the inventor as Cheng-Fang Hsiao; attorney docket number 1496-941, and did not include a Non-publication request.

The oath/declaration contained the same title (Motor), and listed the inventor as Cheng-Fang Hsiao.

The Application Data Sheet ("ADS"), listed the title of the motor; the inventor as Hsiao, and the attorney docket number as 1496-941.

Summary: We have a specification for a lamp, with drawings for the lamp, but we have a application transmittal form, oath declaration, and ADS for a motor.

Analysis

It is obvious that the specification, drawings, application transmittal, oath/declaration and ADS in application 10/688,185 were inadvertently switched with the drawings, application transmittal, oath/declaration and ADS in application 10/687,115. The Office apologizes for any inconvenience caused to Applicants.

The title and drawings in the respective applications have been amended, and the non-publication request, mis-filed in application 10/688,185, has been rescinded¹.

The oath/declaration and ADS filed in application 10/688,185 will be removed and transferred to application no. 10/687,115.

The oath/declaration, foreign priority document and ADS filed in application 10/687,115 will be removed and transferred to application no. 10/688,185.

The inventive entity has been corrected consistent with this Decision.

The \$400.00 petition fee has been refunded to Petitioner's deposit account.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.


Derek L. Woods

Attorney
Office of Petitions

¹ Because the non-publication request was included in the application transmittal document, which was mis-filed, and because it has since been rescinded (thereby correcting the mis-filing), the application transmittal documents will not be transferred.